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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,923	01/05/2004	Kevin B. Pinar	PINK102	9638
7590 03/01/2006				
JOSEPH W. HOLLAND HOLLAND & THIEL, P.C. PO BOX 1840 BOISE, ID 83701-1840			EXAMINER NEWTON, JARED W	
			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/753,923	Applicant(s) PINTAR, KEVIN B.	
	Examiner Jared W. Newton	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in reply to the remarks filed December 5, 2005, by which claims 1, 4, 7, 15, 19, and 20 were amended, and claims 2 and 3 were cancelled.

Claim Objections

Claim 1 contains the misspelling, "aoperture" (see Line8).

Claim Rejections - 35 USC § 102

Claims 11, 14, 15, and 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 321,930 to Wunderlick.

Wunderlick discloses a gun rack comprising a stock support assembly *G* having pivoted curved seat *g* adapted to receive the butt portion of a gun; further comprising a barrel support assembly *T* comprising a claw *H* adapted to grasp the outer perimeter or the gun nozzle (see FIG. 1) Wunderlick further discloses vertical side stock support members *g'* connected to and extending from said butt support member (see FIG. 3). Wunderlick further discloses a lower mounting bracket *C*, wherein the stock support member *G* is pivotally mounted to said lower bracket *C* and pivotable about an axis of rotation; and an upper mounting bracket *B*, wherein the barrel claw *H* is pivotally mounted to said upper bracket *B* and pivotable about the axis of rotation (see FIG. 1). Wunderlick further discloses a barrel gripping claw assembly analogous to a clip, wherein a clip is defined as a device for gripping or clasping. Wunderlick recites, "The arm *T* of bracket *B* has a pivoted or hinged piece or claw, *H*, for grasping the nozzle of

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the gun..." (see Line 48). Wunderlick further discloses first and second vertical stock support members *g'* extending from the butt support member *g*, said stock support members aligned in a parallel orientation to each other (see FIGs. 1 and 3). Wunderlick recites, "The bracket *C* is provide with the arm *G*, having pivoted curved seat *g*, with side and end projections *g'*, in which the stock of the gun in placed" (see Line 45). Wunderlick further discloses the upper and lower mounting brackets with respective support members attached pivotally thereto, as advanced above (see paragraph 8).

In regard to claim 14, Wunderlick discloses a rack including all of the limitations of claim 11, further comprising a clip as set forth in the claim 6 rejection above (see paragraph 9).

In regard to claim 15, Wunderlick discloses a rack including all of the limitations of claim 11, further comprising stock support members as set forth in the claim 7 rejection above (see paragraph 10).

In regard to claim 18, Wunderlick discloses a rack including all of the limitations of claim 15, further comprising the upper and lower mounting brackets with respective support members attached pivotally thereto, as advanced above (see paragraph 8).

Claim Rejections - 35 USC § 103

Claims 1, 4-10, 12, 13, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over '930 to Wunderlick in view of U.S. Patent No. 5,138,786 to Fischer.

Wunderlick discloses a gun rack comprising all of the limitations of claims 11, 15, and 19. Wunderlick does not disclose said side stock support members comprising apertures located near their distal ends, wherein a lock is securable through said apertures and a trigger guard of the firearm for securing the firearm to the stock support assembly. Specifically, Wunderlick does not disclose the oblong aperture according to claims 4, 9, 13, and 18. Fischer discloses a firearm support and protection device 10 comprising a stock supporting housing 18 including two vertical members 18a and 22 disposed on either side of the stock of the firearm (see FIGs. 1, 3, and 4). Fischer also discloses an embodiment of said device comprising an oblong aperture 85, wherein a lock is slid through said aperture and the trigger guard of the firearm. Fischer recites, "...housing 18 may be provided with a slot 85 to accommodate an elevator bolt 85a...In this situation, bolt 85a passes through trigger guard 86 (shown in phantom) which is a part of the pistol to prevent its removal" (see Column 3, Line 41). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the locking means as disclosed by Fischer on the gun rack as disclosed by Wunderlick, by extending the stock support members of Wunderlick in the vertical direction so that their respective upper ends are aligned with an area above the trigger guard of the firearm, and are in the shape of the vertical housing walls as disclosed by Fischer. The motivation for said inclusion would be to provide the rack as disclosed by Wunderlick with an integral locking means. The rack as disclosed by Wunderlick at the time of its invention most likely did not require a locking means, however, as obvious and well known in the art today, gun racks necessitate a locking means for theft prevention and

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safety measures. The motivation for including the elongated aperture slot as disclosed by Fischer would be to accommodate for various types of firearms, comprising various lengths.

Response to Amendment

The amendments to claims 1 and 19 filed on December 5, 2005 under 37 CFR 1.131 are sufficient to overcome the Wunderlick reference alone.

Response to Arguments

Applicant's arguments filed December 5, 2005 have been fully considered but they are respectfully deemed not persuasive to overcome the 35 USC 103(a) rejections of '930 to Wunderlick in view of '786 to Fischer.

In particular, Applicant states that the Fischer reference has been misconstrued in light of the fact that the side members of the support housing do not directly support the weapon. It is noted that a weapon is not part of the claimed invention. Therefore, the Fischer reference only need be capable of providing supporting the side stock of a weapon, including any weapon. The side of the housing to Fischer is capable of supporting the stock of a weapon. Further, the claim limitations do not include language that requires a reference to provide a support for supporting a stock in a specific manner. Applicant argues that the Fischer reference provides a "...bottom flap 62 to support the weapon..." (see Col. 3, Lines 12-15, Fischer) instead up supporting the stock of the weapon with the abovementioned side support members. Although Fischer

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does not teach direct support of the weight of the weapon by the side support members, it is not to say that said side support members do not provide support against lateral or other sideways movements.

Applicant further states that the Wunderlick reference lacks side stock support members connected to and extending from the butt support member. The above description of the Wunderlick reference indicates said members. Wunderlick recites, "...with side and end projections g', in which the stock of the gun is placed..." (see Col. 1, Lines 46-48).

The motivation of combining the teachings of the Wunderlick and Fischer references is maintained. The Wunderlick reference provides a support for a weapon, but does not provide a means for securing the weapon from unwanted removal. The Fischer reference meets this need, and would provide an obvious improvement of a locking means as is well known in the art of gun racks. Applicant's arguments hinge on the fact that a specific weapon is to be supported, when as stated above, the weapon is not part of the invention, and thus it is improper to define the invention according to or relative to an unclaimed element. Moreover, the claim limitations do not teach away from a weapon being supported by both the butt and trigger guard, therefore a reference or combination of references that teaches such remains within said limitations. The combination of the Wunderlick and Fischer references as set forth in the 35 USC 103 rejections would be reasonable and obvious for supporting specific weapons, such as heavy guns.

The preferred embodiment of the support to Fischer being disposed in the corner of a wall is not essential to the invention, but rather its intended use. Attaching the support to objects other than a wall is within the scope of the invention, and does not teach away from its ability to safely secure firearms.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JWN

February 8, 2006



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER